

Chapter 7 – Demand Responsive Service

7.1 Introduction

This chapter explains the U.S. Department of Transportation (DOT) Americans with Disabilities Act (ADA) regulations that apply to demand responsive transportation systems, which are broadly defined as any system that is not fixed route. In [49 CFR § 37.3](#), demand responsive system and fixed route system are defined as follows:

- *Demand responsive system* means any system of transporting individuals, including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including but not limited to specified public transportation service, which is not a fixed route system.¹
- *Fixed route system* means a system of transporting individuals (other than by aircraft), including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including, but not limited to, specified public transportation service, on which a vehicle is operated along a prescribed route according to a fixed schedule.

Demand responsive systems encompass a wide variety of service types, including traditional dial-a-ride service, taxi subsidy service, vanpool service, and route deviation service. Complementary paratransit service, also a type of demand responsive system, is covered separately in Circular Chapters 8 and 9. In addition, FTA reminds readers to consult the general requirements in Circular Chapter 2, which apply to all types of services, including demand responsive service.

This Circular does not alter, amend, supersede, or otherwise affect the DOT ADA regulations themselves or replace the need for readers to reference the detailed information in the regulations. FTA recommendations and examples of optional practices are included throughout the Circular and do not represent requirements. FTA recognizes there are many different ways agencies can implement the regulatory requirements and ensure the delivery of compliant service. FTA encourages transit agencies to engage riders with disabilities when making decisions about local transit service.

7.2 Characteristics of Demand Responsive Systems

Determining whether service is demand responsive is usually, but not always, straightforward. An accurate determination is important because the ADA requirements differ between fixed route and demand responsive services. As discussed in [Appendix D](#) to § 37.3, a key factor in deciding whether a service is demand responsive rather than fixed route is whether riders must request service, typically by making a phone call:

With fixed route service, no action by the individual is needed to initiate public transportation. If an individual is at a bus stop at the time the bus is scheduled to appear, then that individual will

¹ Under § 37.3, *designated public transportation* means “transportation provided by a public entity (other than public school transportation) by bus, rail, or other conveyance (other than transportation by aircraft or intercity or commuter rail transportation) that provides the general public with general or special service, including charter service, on a regular and continuing basis.” *Specified public transportation* means “transportation by bus, rail, or any other conveyance (other than aircraft) provided by a private entity to the general public, with general or special service (including charter service) on a regular and continuing basis.”

be able to access the transportation system. With demand-responsive service, an additional step must be taken by the individual before he or she can ride the bus, i.e., the individual must make a telephone call.

Other factors, such as the presence or absence of published schedules, or the variation of vehicle intervals in anticipation of differences in usage, are less important in making the distinction between the two types of service. If a service is provided along a given route, and a vehicle will arrive at certain times regardless of whether a passenger actively requests the vehicle, the service in most cases should be regarded as fixed route rather than demand responsive.

Not all interactions between riders and transportation providers make services demand responsive. For example, riders often call ahead when using intercity rail or bus services to purchase tickets or reserve seats. Because these interactions do not alter a service's route or schedule, they do not make the services demand responsive. Similarly, some fixed route services permit "flag stops," where riders can signal drivers and board a bus between designated stops. Because they still operate along fixed routes according to fixed schedules, such services are fixed route and not demand responsive. (Note that the services classified as demand responsive for purposes of this Circular are distinct from the definition of "demand response" for the purposes of FTA's National Transit Database.)

The definition of the service is particularly important because true demand responsive services, as covered in this chapter, do not require complementary paratransit. Similarly, because the DOT ADA regulations permit public entities to purchase a mix of accessible and inaccessible vehicles to deliver demand responsive services, understanding what is and is not demand responsive is critical in terms of ensuring riders with disabilities who wish to use these services receive equivalent service and are not subject to discrimination because of their disabilities.

7.3 Acquisition of Vehicles for Demand Responsive Systems

Requirement

"Except as provided in this section, a public entity operating a demand responsive system for the general public making a solicitation after August 25, 1990, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs" ([§ 37.77\(a\)](#)).

"If the system, when viewed in its entirety, provides a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service it provides to individuals without disabilities, it may purchase new vehicles that are not readily accessible to and usable by individuals with disabilities" ([§ 37.77\(b\)](#)).

Discussion

In the DOT ADA regulations, the service requirements for demand responsive systems are directly tied to vehicle acquisition and, for public entities, are found in Part 37 [Subpart D](#) (Acquisition of Accessible Vehicles by Public Entities). Although many transit agencies procure only accessible vehicles for their fleets, the regulations permit agencies to purchase a mix of accessible and inaccessible vehicles for demand responsive services by requiring that the system "when viewed in its entirety" provides equivalent service.

7.4 Equivalent Service in the Most Integrated Setting

Requirement

“For purposes of this section, a demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

- (1) Response time;
- (2) Fares;
- (3) Geographic area of service;
- (4) Hours and days of service;
- (5) Restrictions or priorities based on trip purpose;
- (6) Availability of information and reservations capability; and
- (7) Any constraints on capacity or service availability” ([§ 37.77\(c\)](#)).

Discussion

Equivalent service is an underlying measure of nondiscrimination for demand responsive service with inaccessible vehicles in the fleet. Demand responsive fleets are permitted to include inaccessible vehicles as long as the service to individuals with disabilities is provided in the “most integrated setting appropriate” and is equivalent to the service provided to individuals without disabilities. Circular Section 7.5 discusses common types of demand responsive services. Examples of issues related to equivalency are provided for each respective service.

In some cases, transit agencies procure all accessible vehicles for their fleets, meaning they meet the [Part 38](#) vehicle specifications discussed in Circular Chapter 4. Where all the vehicles in a demand responsive vehicle fleet are fully accessible, the equivalent service standard addressed in this chapter does not apply. The general nondiscrimination requirements in [§ 37.5](#) discussed in Circular Chapter 2, however, apply to all demand responsive services. It would be discriminatory, for example, in a system with a 100 percent accessible demand responsive fleet to charge a higher fare to riders with disabilities or provide them a poorer response time in comparison with the service provided to riders without disabilities.

7.4.1 Service in the Most Integrated Setting

In general, providing service in the most integrated setting appropriate to the needs of the individual means providing service to individuals with disabilities on the same vehicles and together with all other riders. When the service provided is demand responsive, there might be limited circumstances when the use of a separate vehicle is necessary, but such instances would be extremely rare.

It is also important to keep service integration in mind when designing seating plans and preparing specifications for acquiring accessible vehicles. While it may be reasonable to acquire a small number of vehicles designed specifically to accommodate large groups of riders who use wheelchairs, FTA discourages transit agencies from segregating fleets into vehicles that accommodate ambulatory riders and those that only accommodate riders who use wheelchairs. Instead, FTA encourages agencies to acquire vehicles that accommodate a mix of all riders, a prerequisite to fulfilling the most integrated setting requirement.

Transit agencies are allowed to include inaccessible vehicles, such as sedans, in their overall demand responsive fleet. This enables agencies to serve some riders with smaller vehicles that cost less to operate.

In such instances, other riders traveling in an agency's fleet of accessible vans or buses would travel in an integrated setting.

7.4.2 Service Characteristics for Equivalency

The seven § 37.77(c) service characteristics for determining equivalency for riders with disabilities, including those who use wheelchairs, are:

- Response time – The elapsed time between a request for service and the provision of service is the same for riders with and without disabilities, and days and hours to request service are the same.
- Fares – For a given trip, the fare is the same for all riders.
- Geographic area of service – Riders with disabilities are able to request trips in the same area or areas as other riders.
- Hours and days of service – Riders with disabilities are able to request trips on the same days and during the same hours as other riders.
- Restrictions or priorities based on trip purpose – For demand responsive service with restrictions or priorities based on trip purpose, the same restrictions or priorities apply to all riders. Establishing policies that restrict or prioritize service based on trip purpose (e.g., medical transportation only) is acceptable as long as transit agencies apply these policies in the same way for all riders.
- Availability of information and reservations capability – Riders with disabilities have access to the same information and reservation systems as other riders, including information in alternate formats (e.g., large print, braille, audio, or accessible electronic files for riders with vision disabilities). [Section 37.167\(f\)](#) requires agencies to make alternate formats available, usable by the individual, and appropriate to the intended use. This means providing individuals with hearing or speech disabilities equal access to trip reservation systems in order to request service. (See Circular Section 2.8.)
- Any constraints on capacity or service availability – In demand responsive services with service availability or capacity constraints, this means having the same constraints for all riders. The regulations do not prohibit demand responsive services from having trip denials or providing trips on a first-come, first-served basis. However, to be considered equivalent, riders with disabilities would encounter trip denials with the same frequency as riders without disabilities. Similarly, the regulations do not prohibit the use of waiting lists or trip caps, as long as riders with disabilities are not waitlisted more often or do not have more restrictive trip cap limitations. Finally, the regulations do not prohibit demand responsive services from having poor rates of on-time performance or having long ride times due to limited service capacity, as long as riders with disabilities do not experience lower on-time performance rates or longer ride times than other riders.

FTA notes that the above equivalency requirements are often confused with the service criteria for complementary paratransit. While these services can have similar characteristics, there is a fundamental difference in the requirements. As covered in Circular Chapter 8, a transit agency's complementary paratransit service provision is measured against its fixed route service. But in demand responsive service, the comparison is between riders with disabilities and riders without disabilities, and the regulations require the level of service provided to be "equivalent."

FTA also notes that as long as transit agencies provide equivalent service, providing higher levels of service to individuals with disabilities, such as prioritizing routes and schedules for riders with disabilities or offering them reduced fares, is a local decision. Accordingly, throughout this chapter, references to equivalent service being "the same" imply "the same or better."

7.4.3 Service When Viewed in Its Entirety

Determining equivalency also considers the demand responsive service when viewed in its entirety. As explained in Appendix D to § 37.77, “when viewed in its entirety” means that “when all aspects of a transportation system are analyzed, equal opportunities for each individual with a disability to use the transportation system must exist.” For example, some transit agencies may use multiple service providers to operate demand responsive services. Each service provider could have a different mix of accessible and inaccessible vehicles. One provider might primarily use sedans (e.g., a taxi service), while another might operate a fleet of accessible vehicles. In such instances, equivalency determinations are based on all of the providers’ services combined. It is important for agencies using multiple providers—some of which are using inaccessible vehicles—to ensure that all providers operate with the same policies and practices. For example, one taxi provider might accommodate same-day service requests with sedans while another provider using accessible vans might require advance reservations. Providing equivalent service in this instance means riders who need to travel in an accessible van are not required to place reservations earlier than riders who use the taxi service do.

7.4.4 Considering the Next Potential Customer

In some demand responsive services, all current riders might be ambulatory and able to travel in an inaccessible vehicle. This is often the case for vanpools. However, the next potential customer might require an accessible vehicle. Equivalent response time in such instances means being able to provide this person an accessible vehicle in the same timeframe as someone who does not need an accessible vehicle. To do so, agencies must have accessible vehicles in reserve or have plans in place to acquire such vehicles or arrange for their temporary use.

7.4.5 Certification of Equivalency Requirement

Requirement

“A public entity receiving FTA funds under 49 U.S.C. 5311 or a public entity in a small urbanized area which receives FTA funds under 49 U.S.C. 5307 from a state administering agency rather than directly from FTA, which determines that its service to individuals with disabilities is equivalent to that provided other persons shall, before any procurement of an inaccessible vehicle, file with the appropriate state program office a certificate that it provides equivalent service meeting the standards of paragraph (c) of this section. Public entities operating demand responsive service receiving funds under any other section of the [Federal Transit Act] shall file the certificate with the appropriate FTA regional office. A public entity which does not receive FTA funds shall make such a certificate and retain it in its files, subject to inspection on request of FTA. All certificates under this paragraph may be made and filed in connection with a particular procurement or in advance of a procurement; however, no certificate shall be valid for more than one year” (§ 37.77(d)).

Discussion

Before acquiring inaccessible vehicles for use in a demand responsive service, the regulations require a public entity to certify that the service using a future fleet with the inaccessible vehicles being procured will be equivalent for riders with disabilities, including riders who use wheelchairs. Attachment 7-1 provides the certification form for entities to complete. Certifications are valid for one year, meaning the entity will have to recertify before acquiring additional inaccessible vehicles through future procurements.

The requirements for filing certifications vary depending on the type of funding received and the entity receiving funding. As discussed in [Appendix D](#) to § 37.77,

The Department has been asked specifically where an entity should send its “equivalent level of service” certifications. We provide the following: Equivalent level of service certifications should be submitted to the state program office if you are a public entity receiving FTA funds through the state. All other entities should submit their equivalent level of service certifications to the FTA regional office . . . Certifications must be submitted before the acquisition of the vehicles.

The following FTA circulars provide guidance for FTA funding recipients:

- Section 5307 Urbanized Area Program Grants – [Circular 9030.1E](#)
- Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Grant Recipients – [Circular 9070.1G](#)
- Section 5311 Formula Grants for Rural Areas – [Circular 9040.1F](#)

Section 37.77(d) requires transit agencies that receive funds under any other section of the Federal Transit Act to file certificates with the appropriate FTA regional office.

Subrecipient Certification and Monitoring

The § 37.77(d) certification requirements also apply to subrecipients. Because the FTA Master Agreement obligates FTA funding recipients to enter into written agreements with subrecipients that incorporate applicable Federal requirements, FTA requires state administering agencies to have review procedures in place to monitor subrecipients’ compliance with certification requirements.

When awarding inaccessible vehicles to subrecipients, monitoring compliance with certification requirements means asking funding applicants who request inaccessible vehicles to document equivalency of services. Such documentation addresses each area of equivalency: response time, fares, geographic areas of service, hours and days of service, trip purpose, information and reservation capability, and capacity and service availability.

When requesting and receiving inaccessible vehicles, accurately certifying that service is equivalent means reviewing policies and operating procedures to ensure that service is available in the same area, at the same times, with the same response time, and for the same trip purposes for all types of riders. This includes riders with disabilities who use wheelchairs as well as others who may need accessible vehicles. FTA encourages monitoring daily operations to ensure compliance with policies and operating procedures and that the service is equivalent.

FTA also expects subrecipients that obtain or plan to obtain inaccessible vehicles to gather and closely analyze service data to determine if service is the same for all riders. At a minimum, this would include comparing the following service data for riders who need accessible vehicles with riders who do not need accessible vehicles:

- Trip denials and missed trips
- Frequency of being wait-listed
- On-time performance
- On-board ride times
- Telephone hold times

7.5 Types of Demand Responsive Services

Many types of services fall under the demand responsive category, including:

- Dial-a-ride service
- Taxi subsidy service
- Vanpool service
- Route deviation service

Transit agencies must ensure all applicable ADA requirements are being met for all services—not just equivalent service. This includes the general nondiscrimination requirements in Part 37 Subpart A ([§ 37.5](#)) along with the relevant service provisions in Part 37 Subpart G. With these services, agencies have the same obligations to ensure, for example, that service animals are allowed to accompany riders with disabilities and that portable oxygen is accommodated. The training requirements in [§ 37.173](#) can be particularly important. Vehicle operators, including taxi drivers and volunteer vanpool drivers, must be trained to proficiency on safely operating vehicles and equipment and on properly assisting and treating riders with disabilities. (See Circular Chapter 2 for the crosscutting requirements that apply to all modes.) The following descriptions of the most common demand responsive services highlight service options for consideration locally.

7.5.1 Dial-a-Ride Service

As perhaps the most common type of demand responsive service, dial-a-ride operates in a defined area such as a city, county, or transit agency jurisdiction, and during advertised days and hours. Pickups and drop-offs typically take place anywhere within the service area, and sometimes at important out-of-area locations. Riders call to request a pickup time and service providers develop schedules and routes according to these requests.

General public dial-a-ride services are commonly available in suburban and rural areas that do not have sufficient population density to support fixed route service. Sections 5311 and 5307 funds typically support general public dial-a-ride services.

Some agencies operate dial-a-ride services for seniors and individuals with disabilities. They often operate these services as a supplement to fixed route and complementary paratransit services and typically use § 5310 funding to support these services.

Subscription Vans

Subscription van service, a type of dial-a-ride service, provides a defined set of riders with ongoing transportation. This might include reverse commuters working in a common location or social service agency clients traveling to agency programs. Riders either call the service provider to request ongoing transportation or the programs or workplaces arrange transportation services with the providers.

Although the same group of riders may follow a similar daily route and schedule, the roster of van riders can change over time, leading to changes in routes and schedules. Thus, FTA considers subscription van service as demand responsive, not fixed route.

Equivalency for Dial-a-Ride Services

Many dial-a-ride services combine individual transportation and group transportation. Individual transportation services might enable trips for shopping, personal business, or medical appointments. Group trips such as those in subscription vans might serve those traveling to common destinations such as senior nutrition programs. Providing services in the most integrated setting is a particularly important issue for group trips that include social elements. For example, if transporting groups of seniors from a

meal center, it would not be in the most integrated setting to transport those seniors without disabilities home in one vehicle and use a separate accessible vehicle to transport the riders who use wheelchairs.

If multiple service providers with different mixes of accessible and inaccessible vehicles provide service, it is important to consider whether the providers with accessible vehicles operate all the days and hours and in all parts of the service area as providers that operate mainly inaccessible vehicles.

As discussed in Circular Section 7.4, equivalency also means that agencies cannot charge a higher fare to riders with disabilities. Even if service providers charge agencies more to provide trips in lift-equipped vans than in sedans or non-lift vans, such cost differences are internal to the agency and cannot be passed onto riders.

Using Dial-a-Ride Service to Also Provide Complementary Paratransit Service

Some transit agencies that operate both general public dial-a-ride and fixed route service use the general public dial-a-ride service (i.e., vehicles, drivers, scheduling, and dispatch) to meet all or part of their complementary paratransit service requirements. In these cases, the Part 37 [Subpart F](#) complementary paratransit requirements apply, including those covering capacity constraints, to the portion of the service used to meet the complementary paratransit requirements. (See Circular Chapters 8 and 9.) To ensure compliance with Subpart F, agencies must monitor the level of service the complementary paratransit riders are receiving. FTA recommends that agencies record and analyze trip requests and completed trips by type of rider—those determined ADA paratransit eligible versus others not ADA paratransit eligible. This permits agencies to document compliance with the Subpart F requirements during FTA oversight reviews, for example, even if the general public dial-a-ride portion of the service has capacity constraints.

If the general public dial-a-ride portion of a transit agency's service cannot accommodate all trip requests, complying with the Subpart F requirements means giving scheduling priority to ADA paratransit eligible riders and ensuring service for these riders operates without capacity constraints.

FTA recommends clearly describing both types of service (service available to the general public and service for ADA paratransit eligible riders) in public information so that individuals with disabilities understand the benefits of applying for ADA paratransit eligibility and the level of service they can expect to receive.

7.5.2 Taxi Subsidy Service

Taxi subsidy service, often classified as either user-side subsidy or provider-side subsidy service, is also a common type of demand responsive transportation. In both variations, transit agencies contract with taxi companies to provide service. In user-side taxi subsidy programs, agencies sell discounted vouchers (also known as scrip) to riders, who arrange trips directly with taxi companies and use the vouchers as payment for rides. In provider-side subsidy programs, riders may arrange trips through a transit agency. The agency then contracts with taxi companies for service and subsidizes a portion of the taxi fare through its direct payment to the taxi company; the rider pays a fare or agreed-upon amount for each trip.

Equivalency for Taxi Subsidy Services

Taxi subsidy programs administered by transit agencies using FTA funds are subject to the equivalent service requirements. In other words, agencies are responsible for providing equivalent service to individuals with disabilities, including those who use wheelchairs, who qualify for these services. Taxi subsidy programs that use only inaccessible taxicabs would not meet the regulatory requirements for equivalency. One way to provide equivalent service is to work with participating taxi companies to incorporate accessible vehicles into their taxicab fleets. Another way is to contract with other companies that can provide accessible service, and to negotiate terms so that the riders requiring accessible vehicles receive equivalent service without being charged a higher fare.

Transit agencies operating taxi subsidy programs must monitor response times for riders with disabilities, including those who use wheelchairs, to ensure these riders experience comparable response times to other riders. Achieving equivalent response times for all riders can be challenging when only a small portion of a total available taxi fleet is accessible. One option is to establish a central dispatch service and work with operators that have accessible taxicabs to prioritize the assignment of accessible taxicabs to riders who need accessible vehicles. Another option is to use a separate company that operates accessible vehicles to serve riders with disabilities. In such instances, service monitoring for equivalent response times is crucial.

With respect to fares, equivalency means that all riders pay the same fares for comparable trips regardless of the actual cost of providing taxicab service. For example, if more than one operator provides the taxi service and the accessible taxicab provider's fare structure is higher than the other operator, equivalency issues could arise. In programs with capped subsidies (e.g., the agency subsidizes the first \$10 and the rider pays any balance), riders who need accessible taxicabs through a more costly provider cannot be charged a higher fare than those receiving similar trips in less costly inaccessible taxicabs. In voucher programs, riders requiring service in more costly accessible taxicabs cannot be required to use more vouchers for comparable trips. Maintaining the required equivalency might obligate the agency to adopt remedies such as tying coupons to specific rides instead of to dollar values or providing higher subsidies to riders who require accessible taxicabs. (See Circular Section 7.6.)

7.5.3 Vanpool Service

Requirement

“Vanpool systems which are operated by public entities, or in which public entities own or purchase or lease the vehicles, are subject to the requirements of [Part 37] for demand responsive service for the general public operated by public entities. A vanpool system in this category is deemed to be providing equivalent service to individuals with disabilities if a vehicle that an individual with disabilities can use is made available to and used by a vanpool in which such an individual chooses to participate” ([§ 37.31](#)).

Discussion

As defined in the [§ 37.3](#),

Vanpool means a voluntary commuter ridesharing arrangement, using vans with a seating capacity greater than 7 persons (including the driver) or buses, which provides transportation to a group of individuals traveling directly from their homes to their regular places of work within the same geographical area, and in which the commuter/driver does not receive compensation beyond reimbursement for his or her costs of providing the service.

Typically, entities that sponsor and administer vanpools coordinate the creation of vanpool rider groups, set the cost of the service, and collect regular payments from riders. Entities also purchase or lease, insure, and maintain the vans.

Equivalency for Vanpools

Vanpool systems operated by public entities (in which the entities own, purchase, or lease the vehicles)² are subject to the equivalent service requirements that apply to general public demand responsive services. Meeting the vanpool equivalency requirement means being prepared to accommodate requests to participate in the vanpool from individuals with disabilities, including those who use wheelchairs.

² “Operated by public entities” includes those situations in which the public entity owns, purchases, or leases the vehicles, or provides financial assistance to purchase or lease the vehicles.

If riders without disabilities can join an existing vanpool in one or two days, equivalent response time means riders who use wheelchairs can join a vanpool in the same timeframe. (See Circular Section 7.4.4.)

Equivalency for fares means charging all vanpool participants the same fees even if operating costs are higher for operating an accessible van. To make the contributions or fares the same, FTA suggests that sponsoring agencies consider further subsidizing vanpools that accommodate riders with disabilities or assessing a surcharge to all vanpools to offset any higher rider costs of accessible vanpools.

7.5.4 Route Deviation Service

Route deviation service operates along established routes that typically have designated stops. Between these stops, vehicles deviate from an established route to pick up or drop off riders within a defined off-route service area. Figure 7-1 illustrates the route deviation concept.

Transit agencies operating route deviation services typically ask riders to call in advance (e.g., 1–2 hours prior to desired pickup time) to request off-route pickups.

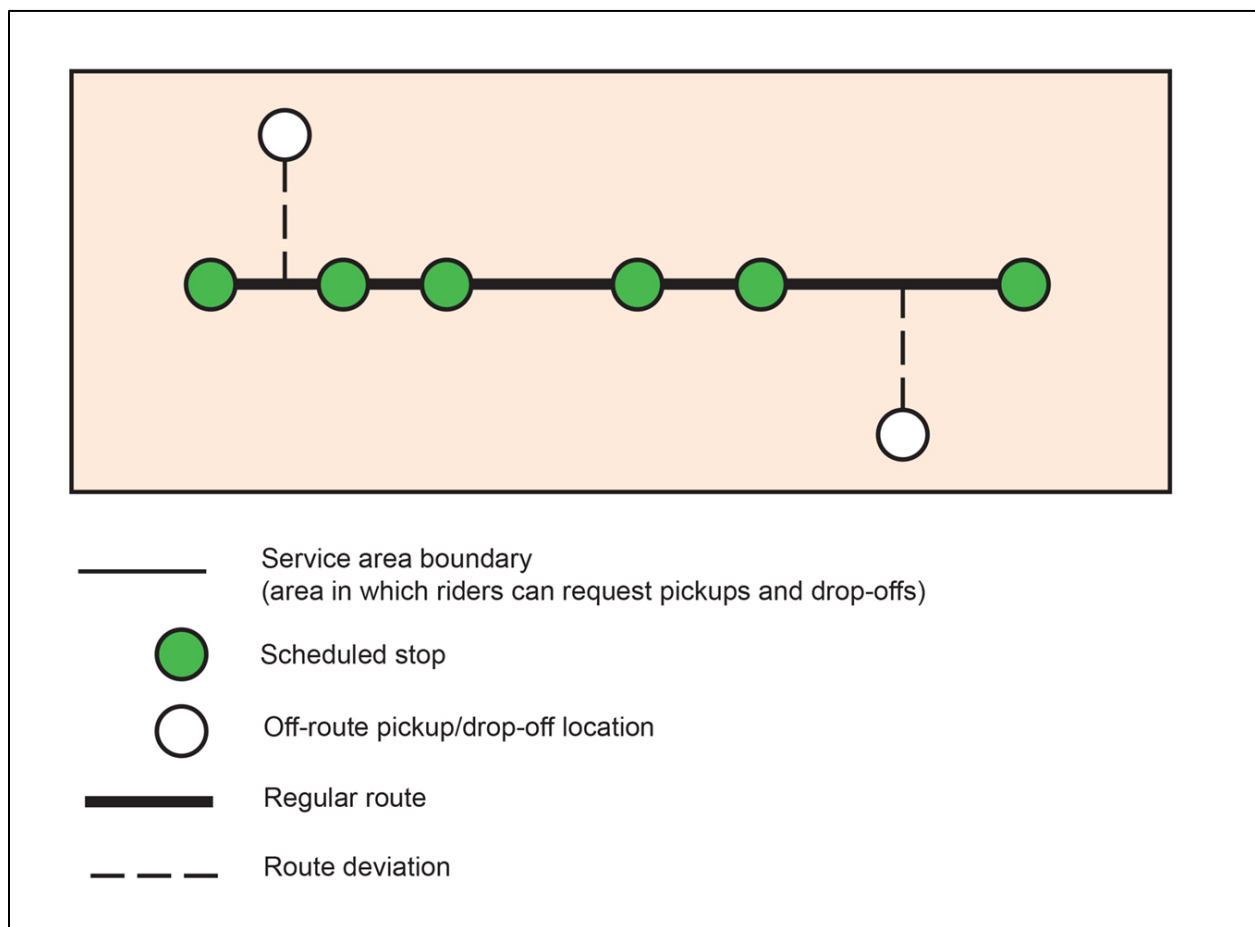


Figure 7-1 – Route Deviation Service³

Typically, all vehicles used in route deviation service are accessible, as it would be difficult to provide equivalent service with a mixed fleet. Riders needing accessible vehicles would not have the same ability to catch the next bus at a scheduled stop if only certain runs were provided with accessible vehicles.

³ Transportation Research Board, Transit Cooperative Research Program Report 163, "[Strategy Guide to Enable and Promote the Use of Fixed-Route Transit by People with Disabilities](#)" (2014).

Considerations for Route Deviation Service

To be considered demand responsive rather than fixed route, route deviation services must accept deviation requests from all riders. Deviated fixed route services that limit route deviations only to riders with disabilities are not demand responsive services. These are fixed route services that require complementary paratransit.

Some transit agencies operate a mix of route deviation and fixed route services. FTA considers the routes that permit all riders to request deviations as demand responsive. Routes that do not allow deviations are fixed route, and therefore complementary paratransit is required.

Similarly, some transit agencies allow deviations only at certain times. For example, an agency may operate fixed route service during peak hours and limit deviation requests to off-peak hours when the schedule can accommodate off-route pickups and drop-offs. In such instances, the service is therefore fixed route during peak periods and demand responsive during the times that deviations are permissible. The Part 37 Subpart F complementary paratransit requirements apply during hours when the service is fixed route.

Operating route deviation services without limits can result in so many deviations that the fixed route portion of the service becomes unattractive to other riders. For this reason, route deviation services are often employed on longer runs in more rural areas where the time spent deviating can be made up along the way. Route deviation services are also sometimes supplemented by other demand responsive services to help meet off-route requests.

Discriminatory Practices that Limit the Use of Route Deviation Service

The [§ 37.5](#) nondiscrimination requirements obligate transit agencies to ensure that their policies and practices do not discriminate against individuals with disabilities. (See Circular Section 2.2.) The following are examples of discriminatory practices in the delivery of route deviation service, and may leave the appearance that a route deviation service is “in name only” as a way to avoid providing complementary paratransit service:

- Designating services as route deviation in plans and other documents, but not advertising them as such. To ensure that riders are aware of and able to use the service, FTA requires that transit agencies advertise the availability of route deviations (e.g., including the information on schedules and in other public information).
- Establishing restrictive policies for deviations that would significantly limit the use of the service by individuals with disabilities who are not able to get to and from designated stops and can therefore only use the service by requesting deviations. This would include:
 - Charging excessive surcharges for deviations
 - Establishing overly restrictive areas within which riders can request deviations
 - Limiting deviations to only certain trip purposes
 - Unreasonably capping the number of permitted deviations

To avoid discriminating against riders with disabilities who may only be able to use the services by requesting deviations, transit agencies must:

- Apply only reasonable surcharges for deviations (e.g., no more than twice the base fare)
- Establish a reasonable service area within which deviations are permitted (e.g., 3/4 mile)
- Ensure that policies capping the number of allowable deviations per vehicle run do not significantly limit the service

Operating Complementary Paratransit Through Route Deviation Service

Services that do not deviate for all riders must provide complementary paratransit service in full compliance with Part 37 [Subpart F](#). (See Circular Chapters 8 and 9.) This includes administering an eligibility determination process to determine who is ADA paratransit eligible. In very rural areas where demand is low, transit agencies might be able to meet the complementary paratransit requirements through off-route deviations.

The DOT ADA regulations do not require agencies to provide complementary paratransit and fixed route service in separate vehicles. In fact, comingling complementary paratransit and fixed route riders on the same vehicle has the benefit of providing service to riders with disabilities in a more integrated setting. Some agencies have long operated comingled service.

A comingled fixed route and complementary paratransit service using the same vehicle operates along a fixed route and deviates from the route only for ADA paratransit eligible riders. The deviation portion of the service is subject to the Subpart F requirements.

While agencies have the option to run complementary paratransit on the same vehicle as fixed route service, if this option is chosen, the agency must be prepared to demonstrate to FTA that it is fulfilling the Subpart F requirements. This would include, for example, ensuring complementary paratransit is provided within 3/4 mile of the fixed route and is free from capacity constraints.

Operating Complementary Paratransit Through Supplemental Dial-A-Ride Service

Where demand is higher, a separate complementary paratransit service may be necessary. In some cases, rather than establishing a new service, transit agencies use existing dial-a-ride programs to meet the complementary paratransit requirements, especially in more rural areas. Both service design options might also be employed. Some complementary paratransit demand might be met by using route deviation vehicles to make off-route pickups and some demand might be met using an existing dial-a-ride program. FTA reminds agencies using these approaches to track and analyze the combined services (deviations and dial-a-ride trips) to ensure compliance with all Subpart F requirements, including the prohibitions against capacity constraints.

Service options are summarized in Table 7-1, including whether or not the Subpart F requirements apply.⁴

⁴ For more information on service delivery options, see [FTA letter](#) to the California Department of Transportation (Caltrans) (Dec. 8, 2014).

Table 7-1 – Service Delivery Options

Service Delivery Option	Route Deviations	Part 37 Subpart F Requirements
Route deviation that is demand responsive	<p>Deviates for all riders, including those without disabilities</p> <p>Publicly advertised as route deviation service</p>	Do not apply
Comingled complementary paratransit and fixed route service on the same vehicle	Deviates only for ADA paratransit eligible riders	Apply to trips for all ADA paratransit eligible riders
Fixed route service with separate complementary paratransit service (operated with separate vehicles or through existing dial-a-ride service)	None	Apply

7.5.5 Other Types of Service

Transit agencies have developed other types of demand responsive services that may include some elements of user interaction. Some of these services are similar to the common services described above with variations. Agencies must evaluate these other services on a case-by-case basis and consult the [§ 37.3](#) definitions and [Appendix D](#) discussions referenced throughout this chapter to determine whether the services are demand responsive or fixed route.

FTA also recognizes the emergence of innovative types of transportation, especially in the realm of demand responsive service. As mentioned in Circular Chapter 1, nearly all types of publically or privately operated transportation are covered by the ADA one way or another, either through the DOT ADA regulations or the Department of Justice's. In some cases, the applicable regulatory requirements may not be immediately clear. FTA grantees contemplating nontraditional programs (e.g., on-demand car- or bike-sharing) are encouraged to contact the FTA Office of Civil Rights for any needed guidance on identifying the applicable requirements.

7.6 Suggestions for Monitoring Service

Transit agencies must sufficiently monitor their demand responsive service, provided in house or by contractors, in order to confirm the service is being delivered consistent with the ADA requirements. States must similarly monitor their subrecipients. FTA does not dictate the specifics of an agency's monitoring efforts. Approaches for monitoring demand responsive service will vary based on the characteristics of the service and local considerations.

7.6.1 Determining Equivalency

Table 7-2 offers suggestions for how to determine equivalency for each of the seven [§ 37.77](#) service characteristics when some of a transit agency's vehicles are not accessible to individuals with disabilities, including individuals who use wheelchairs. Agencies can determine the equivalency of basic service characteristics (such as response time, fares, service areas, days and hours, and trip purposes) by reviewing policy statements, public information, and other documents that define for agencies and the public how the service is operated and the rules for its use.

FTA suggests examining operating procedures and considering any differences between the policies and procedures used to serve riders with disabilities versus policies and procedures for serving riders without disabilities. For transit agencies using multiple providers, FTA also suggests comparing any variations in policies and procedures among contracted providers, including those with mixed fleets of accessible and inaccessible vehicles.

To evaluate the availability of information and reservation capacity, FTA suggests examining policies and procedures for preparing information in accessible formats. This includes reviewing the accessibility of systems used for trip reservations, such as telephone or online systems, and monitoring accessible communications practices to ensure that they are performed as efficiently as other types of communications. (See Circular Section 2.8.)

Determining equivalency in the area of service capacity and availability requires more detailed analysis of various service constraints and limitations, such as waiting lists, trip caps, trip denials, on-time performance, and on-board ride times. In each of these areas, FTA suggests that transit agencies compare the experiences of riders with disabilities, particularly those who use wheelchairs and need accessible vehicles, with the experiences of other riders.

Table 7-2 – Suggested Approaches for Determining Equivalency with the § 37.77 Service Requirements

Service Requirement	Suggested Approach for Determining Equivalency
The same response time	Review all policies that indicate how far in advance riders must request service and confirm that notification requirements are the same for individuals with disabilities. Consider all procedures for arranging service and confirm that individuals with disabilities receive service in the same amount of time. Monitor and observe the service to ensure adherence to policies and procedures and response time are equivalent in practice.
The same fares	Review all policies related to fares to confirm that riders with disabilities pay the same fares as riders without disabilities for similar trips. Confirm there are no additional charges that only riders with disabilities pay. Monitor and observe the service to ensure adherence to policies and fares are equivalent in practice.
The same geographic area of service	Examine the availability of accessible vehicles throughout the service area. Review how the fleet is assigned and the mix of accessible and inaccessible vehicles in each part of the service area. Compare the service areas of different contractors who might have different mixes of accessible and inaccessible vehicles. Monitor and observe service to confirm adherence to policies and that service is provided on an equal basis.
The same hours and days of service	Review all policies related to the days and hours of service to confirm that an adequate number of accessible vehicles is available during all hours of operation. If multiple contractors provide service, confirm that contractors using accessible vehicles operate at least as long as all other contractors. Monitor and observe the service to ensure that policies are followed.
The same restrictions or priorities based on trip purpose	Review all policies and operating procedures to confirm that riders with disabilities can request trips for the same trip purposes as all other riders. The regulations permit demand responsive services to have trip purpose restrictions or priorities, but the same restrictions or priorities must apply to all riders, including riders with disabilities. Monitor and observe the service to ensure that policies and procedures are followed and any trip purpose restrictions or priorities are applied on an equal basis.
The same availability of information and reservations capability	Confirm that public information is available in accessible formats so that riders with disabilities have the same information as all other riders and that reservation systems are accessible.

Service Requirement	Suggested Approach for Determining Equivalency
Constraints on capacity or service availability	<p>Waiting lists – Demand responsive services can have waiting lists, but the regulations require transit agencies to apply them equally to riders with and without disabilities. If using waiting lists, confirm that riders with disabilities are not waitlisted more frequently than other riders. Consider maintaining information about each rider’s disability status, particularly whether a rider uses a wheelchair and requires an accessible vehicle. Periodically review waitlists and calculate the percentage of riders by type who are waitlisted (the number of riders who require accessible vehicles on the waitlist divided by the total number of riders who require accessible vehicles vs. the number of riders who do not require accessible vehicles on the waitlist divided by the total number of riders who do not require accessible vehicles).</p> <p>Trip caps – Demand responsive services can have trip caps, but the regulations require transit agencies to apply them equally to riders with and without disabilities. Examine all policies related to trip caps to ensure that riders with disabilities are not subject to more restrictive trip caps.</p> <p>Trip denials – Demand responsive services can have trip denials, but the regulations prohibit riders with disabilities from experiencing a higher percentage of denied trip requests. Consider maintaining information about each rider’s disability status, particularly whether a rider uses a wheelchair and requires an accessible vehicle. Periodically review trip denials and calculate the percentage of trips requested by riders who require accessible vehicles that were denied (denied trips requested by riders who need accessible vehicles divided by the total trips requested by riders who need accessible vehicles). Compare this with the percentage of trips requested by riders who do not need accessible vehicles that were denied (denied trips requested by riders who do not need accessible vehicles divided by the total trips requested by riders who do not need accessible vehicles).</p> <p>On-time performance – The regulations require riders with disabilities, particularly those who use wheelchairs and require accessible vehicles, to experience the same on-time performance other riders experience. Consider analyzing on-time performance for riders who need accessible vehicles and compare this with the overall on-time performance for the service. FTA notes that given operational variances, equivalent on-time performance means similar, but not identical, on-time performance. For instance, if on-time performance for riders with disabilities over time is very close to the systemwide average, then this represents equivalent on-time performance.</p> <p>On-board ride times –The regulations require that on-board ride times that individuals with disabilities experience, particularly those who use wheelchairs and require accessible vehicles, be the same as the on-board ride times other riders experience for similar trips. FTA suggests analyzing the average on-board ride times for trips taken by riders who need accessible vehicles versus those who do not need accessible vehicles. If the averages differ significantly, consider possible reasons. Are riders with disabilities making different types of trips that are longer? Is the difference caused by more trip grouping on accessible vehicles (and therefore longer ride times) than on inaccessible vehicles?</p>

7.6.2 Monitoring Suggestions for Specific Service Types

Comingled Dial-A-Ride and Complementary Paratransit Service

When transit agencies use dial-a-ride services to provide complementary paratransit, FTA suggests coding general dial-a-ride riders and ADA paratransit eligible riders differently. This can be done in the eligibility determination process (e.g., the ID number for an ADA eligible rider might begin with an “A”). This will allow the agency to compare the level of service ADA paratransit eligible riders receive with other riders and demonstrate to FTA during oversight activity that the service is being monitored and is free of capacity constraints. For example, this could include generating and analyzing a list of all trip request denials to determine if any denials applied disproportionately to ADA paratransit eligible riders.

Taxi Subsidy Service

Monitoring provider-side taxi subsidy services, where a transit agency or call center contractor handles trips requests, is relatively straightforward. Transit agencies can require taxi companies participating in the program to report actual pickup and drop-off times for trips assigned to them as well as other statistics.

Because riders arrange trips directly with participating taxi companies, monitoring user-side taxi subsidy services requires other techniques. One suggested approach is to analyze a sample of voucher trip records and compare the time the rider requested the trip with the dispatch records for when the taxi driver accepted the trip assignment and to examine the actual pickup and drop-off times. This permits comparisons of response times and on-time performance with the levels of service provided to other riders.

Demand Responsive Route Deviation Service

For transit agencies that accept route deviation requests from all riders (i.e., regardless of disability), monitoring is more straightforward since the service is not fixed route. It is not necessary to monitor compliance with the complementary paratransit requirements. FTA suggests that transit agencies analyze how they handle route deviation requests to confirm that there are no restrictions in ways that might be discriminatory to those who can only use the service via off-route deviations.

Attachment 7-1

Certification of Equivalent Service – Appendix C to Part 37

The (name of agency) certifies that its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. Such service, when viewed in its entirety, is provided in the most integrated setting feasible and is equivalent with respect to:

- (1) Response time;
- (2) Fares;
- (3) Geographic service area;
- (4) Hours and days of service;
- (5) Restrictions on trip purpose;
- (6) Availability of information and reservation capability; and
- (7) Constraints on capacity or service availability.

In accordance with 49 CFR 37.77, public entities operating demand responsive systems for the general public which receive financial assistance under 49 U.S.C. 5311 or 5307 must file this certification with the appropriate state program office before procuring any inaccessible vehicle. Such public entities not receiving FTA funds shall also file the certification with the appropriate state program office. Such public entities receiving FTA funds under any other section of the FT Act must file the certification with the appropriate FTA regional office. This certification is valid for no longer than one year from its date of filing.

(Name of authorized official)

(Title)

(Signature)